

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1-4, 12-17, 24 and 25 are in the case.

I. THE OBVIOUSNESS REJECTION

Claims 1-5, 7 and 9-21 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent 4,178,394 to Kumar in view of Nigam (Nigam, P. 2000, "Mycelial Fungi", Encyclopedia of Food Microbiology, Vols. 1-3, Robinson *et al.*, Eds. Academic Press, pp. 2034-2044). That rejection is respectfully traversed.

The present invention is centered on the surprising discovery that fungal particles can be added to gluten in order to delay the development of texture in the gluten. This allows for other ingredients to be blended with the gluten over a period of time. The inventors have found that foodstuffs, such as sausages, prepared using this methodology, have very acceptable properties (specification, page 14, lines 6 to 22 and page 16, Example 5).

As claimed in claim 1, there is provided a composition comprising fungal particles of a filamentous fungus and a powdered gluten. The ratio of the weight on a dry matter basis of the powdered gluten to the weight on a dry matter basis of the fungal particles in the composition is greater than 1.

Kumar discloses the preparation of five individual and distinct phases (column 4, line 43) and blends all five phases together. One of these phases is a gelled mass of wheat gluten (column 2, line 50 and column 5, line 21). Kumar contains no suggestion of a composition comprising fungal particles of a filamentous fungus and a powdered

gluten. The only time in Kumar when the "textured protein concentrate..." (column 3, line 18), such as the soya protein isolate, contacts the gluten is after the gluten has been gelled and extruded to produce a "cohesive mass to obtain strands of hydrated gluten..." (column 3, lines 11 to 16). Similarly, in Example 2 of Kumar (column 8, line 64 *et seq.*), a dough is formed comprising wheat gluten which is then extruded. It is only later (column 9, line 7) that the "textured protein concentrate..." is added.

In the presently claimed method (claim 16), powdered gluten is contacted with fungal particles. Kumar does not suggest such a methodology.

Based on the above, it is clear that one of ordinary skill, as of the filing date of the present application, would not have been motivated to arrive at the presently claimed invention in light of Kumar. In particular, there would have been no motivation for a skilled person to dispense with the five individual phases described by Kumar, one of which produces strands of gelled gluten, and contact filamentous fungus and gluten prior to gellation of the gluten, so as to delay gellation of the gluten.

Moreover, the cited prior art does not recognize the advantages which result from using the claimed method of the present invention and/or providing a composition as claimed. With regard to the composition of claim 1, other ingredients can be readily blended into the composition due to the fact gellation of the gluten is **delayed** by inclusion of the fungal particles. It would not have been obvious to modify Kumar and arrive at the subject matter of the present invention.

The above-noted deficiencies of Kumar are not cured by Nigam. Neither Kumar nor Nigam, taken singly or in combination, recognizes the problem associated with the rapid gelation of gluten, and neither document provides or suggests a solution to this

problem. Kumar is not concerned with rapid gelation of gluten because Kumar approaches production of sausage products in an entirely different way to that in accordance with the presently claimed invention. Kumar blends five separate phases with the gluten phase already being in the form of a solid mass. Kumar has no reason to slow down the gelation of gluten. In fact, if gluten gelation was retarded, this could be detrimental because it would take longer to prepare the gelled gluten with little, if any, associated benefit.

Kumar fails to suggest fungal particles and is also silent as to the ratio of the fibrous material to the gluten. Nigam is of no assistance since Nigam, like Kumar, does not recognize the problem associated with the rapid gelation of gluten, and neither Kumar nor Nigam provides or suggests a solution to this problem. Even if combination of Kumar and Nigam had been attempted by one of ordinary skill (it is believed this would not have occurred), the claimed invention would not have resulted or have been rendered obvious thereby, because there is no suggestion in Kumar or Nigam, taken singly or together, of producing a composition of filamentous fungus and powdered gluten, nor any appreciation in Kumar and/or Nigam that filamentous fungus may be used to retard the development of texture in gluten and, thus, allow other materials to be blended into the gluten, thereby producing an advantageous foodstuff.

In addition, the claimed composition comprising fungal particles and powdered gluten is advantageous in facilitating processing of gluten. One of ordinary skill on reading Kumar and/or Nigam at the time of filing of the application would not have appreciated such an advantage, since neither Kumar nor Nigam addresses the problem, nor suggests a solution, with regard to the rapid gelation of gluten. In addition,

neither document provides any motivation for one of ordinary skill to arrive at the solution as reflected in the presently claimed invention.

New claim 25 is directed to a composition comprising fungal particles of a filamentous fungus and gluten, wherein the ratio of the weight on a dry matter basis of the gluten to the weight on a dry matter basis of the fungal particles in the composition is greater than 1, and wherein the filamentous fungus and gluten are part of a continuous phase (page 14, line 18). The cited art taken singly or in combination does not suggest the subject matter of claim 25.

In summary, the cited prior art does not give rise to a *prima facie* case of obviousness of the presently claimed invention. Withdrawal of the obviousness rejection is respectfully requested.

II. AMENDMENTS

Claims 1 and 16 have been amended to refer to powdered gluten. Support for the amendment to "powdered gluten" appears at page 10, line 27. New claims 24 and 25 are also presented. Support for "a continuous phase..." appears at page 14, line 18 of the specification as filed. No new matter is entered.

Favorable action is awaited.

Respectfully submitted,

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